

**Testimony of James B. Clawson**

**On behalf of the  
Joint Industry Group**

**Before  
The Committee on Finance  
US Senate**

**On**

**Homeland Security and International Trade**

**July 16, 2002**

**INTRODUCTION**

Mr. Chairman and distinguished Members of the Senate Finance Committee, my name is James B. Clawson and I am the Chief Executive Officer for JBC International. I also serve as the Secretariat for the Joint Industry Group (JIG), a coalition of more than one hundred and sixty members representing Fortune 500 companies, brokers, importers, exporters, trade associations, and law firms actively involved in international trade. The Joint Industry Group enjoys a close and cooperative relationship with the U.S. Customs Service and frequently engages Customs on trade-related issues that affect the growth and strength of American imports and exports.

It is my honor to appear before this Committee to share with you the comments of the Joint Industry Group and its membership regarding Homeland Security and International Trade. More specifically, I will address how the organization of the new Homeland Security Department can be seamlessly organized to guarantee the continued efforts of Congress and the Administration to facilitate the safe and secure flow of trade.

The JIG fully supports the Bush Administration's proposal to create a Department of Homeland Security. The trade community recognizes the need to create an integrated agency that will defend our nation's borders. We continue to stress our concern that the architects of the reorganization must be careful in their approach to anticipate the future needs of the agencies involved and the people they serve. The Administration must devote attention to the commercial interests and trade facilitation efforts within the new Department and to continue adequate funding of those activities. The U.S. Customs Service should continue with their efforts to develop and implement smarter tools for facilitation, including the Automated Commercial Environment (ACE), and they should continue to engage the support of the trade community in building better business procedures that will continue to increase compliance with our Nation's trade laws.

Like this committee, the trade is concerned with how to strike a balance between Customs' inherently inseparable role in commercial and enforcement operations after being placed within this new, single "Security Department." We hope to be able to deliver some insights and realistic solutions that will assist this committee as you consider your responsibility in protecting the physical and economic welfare of our nation. We recognize that the trade will not make the ultimate decision in the final organization of the homeland security efforts. However, we call upon this committee to guarantee the continued identity and function of Customs commercial processes and the urgency to facilitate trade for the benefit of our economy.

### **CONTINUING EFFORTS TO FACILITATE TRADE**

In recognition of the many dangers facing the nation, the U.S. Customs Service has relied upon technology to keep pace with the volume of trade and the threats posed by transnational criminal organizations. Both Congress and the Administration have shown great support for the development of the Automated Commercial Environment (ACE). This system is used by **EVERY** government agency that has a responsibility to protect our nation at its borders. Commissioner Bonner has repeatedly assured the trade that ACE will be fully implemented within an appropriate time frame. In light of the events of September 11, the trade is fully assured by members of this Committee, Congress and the Administration that ACE will be successfully completed in a reasonable time frame.

The committee must also recognize the importance the trade places on other facilitation initiatives that are currently underway at Customs and the Administration. Many members of the trade community fear that trade facilitation will be almost entirely neglected in a department devoted entirely to security and enforcement. Trade facilitation includes initiatives to simplify current trade procedures through technology or procedural reform. It takes into consideration classification, valuation, data harmonization and all other technical issues related to trade. ACE is just a piece of the puzzle. It also calls for full implementation of the Customs Modernization Act and continuing efforts for procedural reform to ease the regulatory and administrative burdens posed on Customs and the trade. These reforms should address processing imports that arrive via differing modes of transport. They must also address predictability and reliability of the entry process between ports, minimizing defensive interpretations made by border agents that stop welcomed goods at the border.

The new Department also provides an additional opportunity to review all laws that may be revoked, reworked, or reassigned to other agencies. Any organizational changes should be done to simplify Customs administrative responsibilities. We appreciate the promises made by Governor Ridge, Commissioner Bonner, and other members of the Administration regarding trade facilitation and procedural reform. These gentlemen promise that the necessary measures to expedite the legal flow of goods will be taken. Unfortunately, the trade continues to patiently wait for the fulfillment of commitments made after the passage of the Mod Act in 1993. This committee should continue to investigate mechanisms for insuring that the trade facilitation function within Customs and Treasury is preserved and receives adequate funding in the future in the new Department.

## **AUTHORITY OVER TRADE FACILITATION**

The JIG agrees with those who are concerned with the disappearance of the Customs Service in an agency devoted to border security and enforcement. This committee must evaluate the impact this new agency will have on international trade and the flow of goods. The U.S. Customs Service has developed several partnership initiatives to work side by side with the trade. These programs include the Customs-Trade Partnership Against Terrorism (C-TPAT), the Container Security Initiative (CSI), and the Importer Self Assessment (ISA). Commissioner Bonner has spoken on these initiatives, claiming they will enhance the ability of Customs to target risk shipments by effectively pushing the borders back. While these programs promise to effectively secure the global supply chain, some would claim they are not able to fully address international trade facilitation.

There is no doubt that our efforts to guarantee homeland security will affect our trade processes. The post-September 11 environment has caused an increased need to secure all aspects of trade, affecting land border crossings and security at our ports. It has changed the trade's responsibility for sharing information on cargo shipments and requires U.S. companies to know their trading partners. However, as the trade steps up to join Customs, Treasury and other agencies to guarantee security, they must not forget a more pressing responsibility to facilitate and strengthen our economy.

This committee has a responsibility to take the necessary steps to guarantee that Customs commercial operations and trade facilitation efforts have equal priority with border security. I believe one option to guarantee the commercial activities in the new Department is to establish an Under Secretary for Commercial Operations whose office will ensure equal priority within the Department for those functions. This would give the commercial work of Homeland Security the same stature as Customs border security and enforcement functions.

The Under Secretary would guarantee that Customs' obligation to facilitate trade would not be subsumed within an agency whose first priority is the security of our Nation's borders. To guarantee a level of visibility, this Under Secretary for Commercial Operations would report to the Deputy Secretary within the Department of Homeland Security. Carving out the jurisdiction of this new Under Secretary could simply compare the classic revenue and taxation functions of Customs with their respective budgetary functions. The responsibilities of this new Under Secretary could include any function of Customs that is within the original jurisdiction of the appellate jurisdiction of the Court of Appeals for the Federal Circuit or the Court of International Trade.

In addition, Customs must continue to be subject to Congressional oversight by those committees with the right authority. Mr. Chairman and Members of the Committee, we believe this Committee must continue to have jurisdiction and oversight of Customs' commercial operations and facilitation initiatives. Equally as important, we believe this committee should maintain jurisdiction and oversight over Customs' commercial operations and trade-related functions within the Homeland Security Department.

Make no mistake that other government agencies have a responsibility to continue to work to facilitate trade. The Office of the U.S. Trade Representative, the Commerce Department, the Food and Drug Administration, the Transportation Security Administration, and the Bureau of Alcohol, Tobacco and Firearms all have vital roles in guaranteeing the continued flow of goods across our borders. Important trade facilitation activities that are currently thriving within the Treasury Department should not be forgotten in the transition. Congress, Customs and Treasury should continue to work on projects such as the World Customs Organization's (WCO) Trade Data Harmonization initiative. Congress should also take the necessary steps to guarantee that these agencies are accountable for these additional efforts to facilitate trade and build our economy.

### **CONTINUED SUPPORT FROM THE TRADE**

The Department of Treasury and U.S. Customs continually engage the trade in advisory roles and forums. It is vital that the branch that retains jurisdiction over Customs' commercial operations maintain a contingent of representatives to provide advice on trade facilitation measures and administrative reform. For example, the Advisory Committee on the Commercial Operations of Customs (COAC) regularly advises Treasury and Customs on the implementation of programs that directly affect their ability to do business. They also advise Customs during implementation of trade agreements and legislative mandates.

While it is vital that the trade is continually engaged as advisors to Customs, the Treasury and the future Department of Homeland Security, it is also necessary for those who construct the rules of law to evaluate the effectiveness of such industry working groups. Some industry working groups are more effective than others, just as some of these so-called "partnership initiatives" are more effective than others. However, it is more important that Congress and the trade are guaranteed a continued role in oversight as Customs is moved to the new Department of Homeland Security. Specifically, this, and other appropriate Congressional Committees should retain jurisdiction over Customs and trade-related functions. It is essential that Customs and the trade continue to work together to guarantee that public and private interests work in cooperation to facilitate global trade.

### **FUNDING FOR COMMERCIAL OPERATIONS**

The JIG is concerned that money earmarked for Customs' commercial operations and trade facilitation activities will be diverted to fund enforcement activities. Fees imposed in the name of Customs' commercial operations should only be dedicated to the programs that they claim to support. If the Customs Service is to continue collecting fees in the name of commercial operations, they must directly fund improvements to Customs processing, specifically for ACE and other initiatives that are greatly needed to improve the trade process. Last week, the House Committee on Appropriations showed their support by earmarking an additional \$4million for Customs Automation Modernization. We ask that this committee consider demonstrating the same level of commitment by continuing appropriate authorization levels for ACE.

It is important for Members of this Committee to authorize adequate funding for Customs commercial operations as well as their trade facilitation activities. Mechanisms should also be

developed to guarantee that user fees and appropriated funds are not included in legislation where de facto justification or revenue neutrality is not used to siphon money away from commercial activities into the security and enforcement activities. This includes funds dedicated to trade facilitation measures. Customs and the new Department of Homeland Security should be held to a standard that aims to warn against the misuse of funds.

## **CONCLUSION**

Mr. Chairman and Members of the Committee, the Joint Industry Group supports the President's efforts to protect our nation's welfare. The trade community views their role as standing side-by-side with U.S. Customs and border protection officials, working as partners on the front lines to facilitate the safe and secure flow of commerce. We ask the Committee to consider the importance of the dual role of Customs and their efforts to facilitate trade. Again, this will allow the Customs Service to better fulfill its dual mission of protecting America's borders from foreign threats, while facilitating the flow of trade through our air, sea, and land ports.

We thank you for your time and consideration of these issues.